



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

[REDACTED]
VA File Number
[REDACTED]

**Represented By:
DISABLED AMERICAN VETERANS
Rating Decision
04/06/2020**

INTRODUCTION

The records reflect that you are a veteran of the Gulf War Era and Peacetime. You served in the Army from September 6, 1977 to May 5, 1988 and from November 22, 1993 to September 30, 1999. You filed a new claim for benefits that was received on January 15, 2020. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Service connection for obstructive sleep apnea is granted with an evaluation of 50 percent effective June 26, 2019.
2. Service connection for gastroesophageal reflux disease (GERD) is denied.

EVIDENCE

- DD-214 from September 6, 1977 to May 5, 1988 and from November 22, 1993 to September 30, 1999

- Service Treatment Records from September 6, 1977 to May 5, 1988 and from November 22, 1993 to September 30, 1999
- VA 21-526EZ, Fully Developed Claim (Compensation), received on January 15, 2020
- DBQ GI Esophageal Disorders, received on April 02, 2020
- DBQ Medical Opinion, received on April 02, 2020
- DBQ RESP Sleep apnea, received on April 02, 2020
- Veteran's Statement, received on January 15, 2020
- Cochise Sleep Center Tab C, received on January 15, 2020
- DBQ ESOPHAGEAL Conditions Tab A, received on January 15, 2020
- DBQ RESP Sleep Apnea Tab B, received on January 15, 2020
- Statement from Mr. Moore (Sleep), received on January 15, 2020
- Tuscon Surgery Center, received on January 15, 2020
- Medical Opinions (Private) GERD & OSA Tab E, received on January 15, 2020
- Statement from Spouse (GERD), received on January 15, 2020
- VA 21-4142 Authorization for Release of Information received January 15, 2020
- VA 21-0966 Intent to File received June 26, 2019
- VA letter, dated January 23, 2020
- Private Treatment Records, Dr. David Knapp, received January 24, 2020
- Private Treatment Records, Anthony A. Nazaroff, MD, received January 24, 2020
- Private Treatment Records, Dr Charles Krone, received January 29, 2020
- Section (§) 5103 Notice Response, received February 3, 2020
- VA letter, dated March 16, 2020
- VAMC (Veterans Affairs Medical Center) treatment records, Tucson, from June 7, 2005 through March 27, 2020

REASONS FOR DECISION

1. Service connection for obstructive sleep apnea as secondary to the service-connected disability of sinusitis, status post septoplasty (previously rated as chronic sinusitis/rhinitis, status post septoplasty).

Service connection for obstructive sleep apnea has been established as related to the service-connected disability of sinusitis, status post septoplasty (previously rated as chronic sinusitis/rhinitis, status post septoplasty). (38 CFR 3.310)

An evaluation of 50 percent is assigned from June 26, 2019. The effective date is based on the date that we received your intent to file a claim, since your formal application was received within one year of the date on which you filed your intent. (38 CFR 3.155) (38 CFR 3.400)

We have assigned a 50 percent evaluation for your obstructive sleep apnea based on:

- Requires use of breathing assistance device such as continuous airway pressure (CPAP) machine

Additional symptom(s) include:

- Persistent day-time hypersomnolence

A higher evaluation of 100 percent is not warranted for sleep apnea syndromes unless the evidence shows:

- Carbon dioxide retention; or,
- Chronic respiratory failure; or,
- Cor pulmonale; or,
- Tracheostomy required. (38 CFR 4.96, 38 CFR 4.97)

2. Service connection for gastroesophageal reflux disease (GERD). Service connection for gastroesophageal reflux disease (GERD) as secondary to the service-connected disability of chondromalacia patella, status post patella sleeve fracture, right knee.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service. (38 CFR 3.303)

The evidence does not show an event, disease or injury in service. (38 CFR 3.303, 38 CFR 3.304) Your service treatment records do not contain complaints, treatment, or diagnosis for this condition. We received your medical evidence which discusses the symptoms of your medical condition. The VA medical opinion found no link between your diagnosed medical condition and military service. The examiner stated that while the veteran is service connected for chondromalacia patella, status post patella sleeve fracture, right knee, there is no evidence in medical literature to substantiate that a knee condition would result in a development of GERD.

Service connection may be granted for a disease or injury which resulted from a service-connected disability or was aggravated thereby. The evidence does not show that gastroesophageal reflux disease (GERD) is related to the service-connected condition of chondromalacia patella, status post patella sleeve fracture, right knee, nor is there any evidence of this disability during military service. (38 CFR 3.303, 38 CFR 3.306, 38 CFR 3.310)

Service connection for gastroesophageal reflux disease (GERD) is denied since this condition neither occurred in nor was caused by service. (38 CFR 3.303, 38 CFR 3.304)

Favorable Findings identified in this decision:

The claimed primary disability of chondromalacia patella, status post patella sleeve fracture, right knee is service-connected.

You have been diagnosed with a disability. VA exam dated March 27, 2020 indicated diagnosis of gastroesophageal reflux disease (GERD).

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the